

Attorney General's Office announces agreement with Odessa National developer to resolve complaints it failed to timely construct amenities

Nearly \$140,000 to be paid to Biden's office, which will use payment to compensate homeowners; \$750,000 previously secured for homeowners following earlier investigations of Odessa National builders

Wilmington – Attorney General Beau Biden today announced that his office has resolved a lawsuit against a Delaware developer for failing to timely complete certain amenities at the Odessa National residential community. Under the terms of a settlement reached last week, the parties will pay \$139,900 to the Attorney General's Consumer Protection Fund.

"This resolution holds the parties accountable to their obligation," Biden said today. "We will use the funds we receive to reimburse Odessa National homeowners who were affected."

Odessa National homeowners are assessed a mandatory \$1,200 annual fee for a social membership in the community's golf course, and multiple homeowners filed complaints that they continued to be charged those fees on a quarterly basis, even though related amenities that were advertised at the time of

sale, including a clubhouse, swimming pool, and tennis court, had not been completed. In August, 2009, Biden's office reached an Assurance of Voluntary Compliance with Joseph M. Capano and his companies Odessa National Golf Course, LLC and Odessa National Development Company, LLC (the "Odessa National parties") obligating the Odessa National parties to complete all advertised amenities related to the Odessa National Golf Course by December 31, 2010. Failure to complete the amenities by that date subjected the Odessa National parties to a financial penalty. The deadline was later extended to March 31, 2011 due to weather conditions experienced in the winter of 2010.

When the amenities were still not complete by May, 2011, Biden's office filed a lawsuit against the Odessa National parties for failing to abide by the terms of the August, 2009 agreement. At the time the lawsuit was filed, of all the amenities advertised to prospective buyers only the golf course had been completed. The additional amenities were ultimately made available for residents to use later in 2011.

Biden announced today that his office will use the \$139,900 payment to provide restitution to over 400 Odessa National homeowners who owned homes at the time the lawsuit was filed. Each of those homeowners will receive \$300 to compensate them for being billed the second quarter of 2011 – the quarter by which the amenities should have been completed.

Biden's office conducted multiple investigations over several years into complaints filed by Odessa National homeowners. From 2008 – 2010, the Attorney General's office investigated complaints against NVR, Inc. which, under the name "Ryan

Homes," built several sections of homes in Odessa National. In 2008 the Attorney General's office settled complaints from buyers in the community's "Legacy" section that they were never told of the fee obligations that came with their properties. Ryan Homes agreed to assume the \$1,200 annual golf club membership fees for 71 homebuyers. In April 2010 the Attorney General's office settled a civil consumer fraud lawsuit it filed earlier that year against Ryan Homes following its investigation of homebuyer complaints in the "Tweedsmere" and "Lynemore" sections which it developed. That agreement provided reimbursement to 44 homeowners who had filed complaints for the period of time when they had been paying for promised amenities, including a golf course, clubhouse, swimming pool, and tennis court, that were not completed. Ryan Homes cooperated with Biden's office in its investigations and both cases led to amicable resolutions. In total, Ryan Homes paid more than \$750,000 to consumers and the Attorney General's office following those previous investigations of homeowner complaints at Odessa National.

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